

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

IN RE: )  
 ) CASE NO. 18-13995-KHK  
CARMEN M. GETER, ) CHAPTER 13  
 )  
 )  
Debtor. )

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN  
NOTICE OF OBJECTION TO CONFIRMATION OF PLAN  
AND NOTICE OF SCHEDULED HEARING ON THIS OBJECTION

1. Notice of Objection and Notice of Hearing

<b>PLACE OF HEARING:</b>	<b>DATE AND TIME OF HEARING:</b>
Courtroom III 200 South Washington Street Alexandria, Virginia 22314	February 14, 2019 9:30 a.m.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

2. Objection to Confirmation of Chapter 13 Plan

The United States of America, by and through undersigned counsel, on behalf of its Internal Revenue Service, hereby objects to confirmation of the proposed Chapter 13 Plan on the following grounds:

1. The Internal Revenue Service has timely filed a proof of claim setting forth the following information:

Robert K. Coulter  
Assistant United States Attorney  
VSB: 42512  
2100 Jamieson Avenue  
Alexandria, Virginia 22314  
Tel: (703) 299-3745  
Counsel for the United States of America

Claim Number:	1-1
Secured Amount	\$44,168.80
Unsecured Priority Amount:	\$ 6,201.51
Unsecured General Amount:	\$ 432.10
Total Claim Amount:	\$50,802.41

2. The proposed plan fails to recognize the secured claim of the Internal Revenue Service. Plans that do not provide for the full payment of secured claims are not confirmable. *See* 11 U.S.C. §1325(a)(5)(B); In re Barnes, 32 F.3d 405 (9th Cir. 1994); Memphis Bank & Trust Co. v. Whitman, 692 F.2d 427, 429 (6th Cir.1982); In re Coles, 252 B.R. 66 (Bankr. E.D. VA 1999); United States v. Haas (In re Haas), 203 B.R. 573 (E.D. Pa. 1996). The plan must provide that the full amount of the secured claim, plus interest at the current IRS underpayment rate shall be paid through the plan.<sup>1</sup> This should be reported in Section 3D of the plan listing the Creditor as “IRS,” Collateral as “All Property,” *see* 26 U.S.C. §6321, The Monthly Payment and Estimated Term should be calculated by amortizing the secured claim amount over the remaining term of the plan.

3. The proposed plan does not adequately provide for the Internal Revenue Service’s priority claim as required by 11 U.S.C. §1322(a)(2). Plans that do not provide for the full

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<sup>1</sup> The interest rate applicable on the date of the petition is 5%.

payment of priority claims are not confirmable. In re Escobedo, 28 F.3d 405 (7th Cir. 1994).

WHEREFORE, the United States respectfully requests that confirmation of the proposed plan be denied.

Respectfully submitted,

G. Zachary Terwilliger  
United States Attorney

By: /s/ Robert K. Coulter  
Robert K. Coulter  
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that I have on this date served the foregoing upon all interested parties to this proceeding, by causing true and correct copies thereof to be placed in the United States mail, postage prepaid, addressed as follows:

Carmen M Geter  
9989 Capperton Drive  
Oakton, VA 22124

I hereby certify a copy of foregoing will be filed with the United States Bankruptcy Court electronically in the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. Parties currently listed by the CM/ECF system to receive electronic notice in this case are set forth below.

- Nathan A. Fisher: Fbarsad@cs.com, barsad@aol.com
- John P. Fitzgerald, III: ustpregion04.ax.ecf@usdoj.gov
- Thomas P. Gorman: ch13alex@gmail.com, tgorman26@gmail.com
- Jeremy Calvin Huang: jhuang@chadwickwashington.com, lwoodward@chadwickwashington.com
- Nisha Ryan Patel: npatel@siwpc.com, bjordan@siwpc.com; dsasser@siwpc.com; ewhite@siwpc.com; jmuncy@siwpc.com; mfreeman@siwpc.com; bkreferrals@siwpc.com; siwbkecf@siwpc.com; siwpc@ecf.courtdrive.com; siwattecf@siwpc.com

Date: December 17, 2018

/s/ Robert K. Coulter  
ROBERT K. COULTER